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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,247	12/08/2003	Vaughn T. Rokosz	LOT920030053US1	2509
23550 7590 01/19/2007 HOFFMAN WARNICK & D'ALESSANDRO, LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207			EXAMINER WONG, LUT	
			ART UNIT 2129	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/730,247

Applicant(s)

ROKOSZ ET AL.

Examiner

Lut Wong

Art Unit

2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is responsive to an AMENDMENT entered Dec 20, 2006 for the patent application 10/730247 filed on Dec 08, 2003.
2. The First Office Action is fully incorporated into this Final Office Action by reference.

### *Status of Claims*

3. Claims 1-2, 4-22 are pending. Claims 1, 4-6, 8,10-11, 13-17, 18 and 20-21 have been amended and claim 3 has been cancelled.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 1-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

Claims 1, 8, 13, 18 have been amended, but no support has been provided for the limitation "wherein at least one of the desired interactivity metrics provided by the potential user measures an interactivity between users unrelated to a content of information posted in the collaborative space."

In re pg. 7, applicant argues that claim 3 indicates that the flow of information is “continuous”, and the information is “current” status”. In response, Alford also anticipates such limitation. (See e.g. Fig. 5 and section 4.1 especially where it states “a steady stream of data” *EN: a stream of data is continuous information*).

### ***Response to Arguments***

Applicant's arguments have been fully considered and are persuasive. The claim objection and 112.2 rejection has been withdrawn.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 13-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, for reason of record as set forth in previous office action.**

Claim 13-17 recites the limitation “a computer implemented system”. In according to applicant's disclosure, such system can be software per se. The intrinsic evidence can be found in applicant's disclosure p13 [0038]. Software is not one of the statutory categories, thus claims drawn to software per se is non-statutory.

### ***Response to Arguments***

In re pg. 9-10, applicant argues that amending the phrase “computerized” to “computer implemented system” makes the claimed invention statutory and that now it is not software per se. In response, merely citing a computer implemented system does not render the system as hardware. The claims fail to provide a tangible result, and there must be a practical application, by either 1) transforming (physical thing) or 2) by having the FINAL RESULT (not the steps) achieve or produce a useful (specific, substantial, AND credible), concrete (substantially repeatable/non-unpredictable), AND tangible (real world/non-abstract) result.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipates by**

**Netscan (<http://web.archive.org/web/20021001103129/netscan.research.microsoft.com/Static/Default.asp>)**

**for reason of record, as set forth in previous office action.**

***Response to Arguments***

In re pg. 10-11, applicant argues that Netscan does not “allow the user to provide at least one of the desired interactivity metrics provided by the potential user measures an interactivity between users unrelated to a content of information posted in the collaborative space.” In response, as set forth in previous office action, Netscan clearly anticipates such limitation. When the user clicks on a metric, the newsgroups are

Art Unit: 2129

resorted using the selected metric. Metrics such as replies and repliers are indication of interactivity between users unrelated to the content of information posted. Applicant is recommend to test out Netscan at <http://netscan.research.microsoft.com/Default.aspx>

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lut Wong whose telephone number is (571) 270-1123. The examiner can normally be reached on M-F 7:30-5.

Art Unit: 2129

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent David can be reached on (571) 272-3080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lut Wong  
Patent Examiner

*Daniel Vincent*  
SPE 2129  
1/15/07